

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In re Application of)
)
Amendment to the Commission's)
Rules Regarding a Plan for Sharing)
the Costs of Microwave Relocation)

WT Docket No. 95-157
RM-8643

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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**COMMENTS OF HUGHES SPACE AND
COMMUNICATIONS INTERNATIONAL, CELSAT AMERICA,
COMSAT CORPORATION, ICO GLOBAL COMMUNICATIONS,
AND PERSONAL COMMUNICATIONS SATELLITE CORPORATION**

Hughes Space and Communications International ("Hughes"), COMSAT Corporation ("COMSAT"), ICO Global Communications, Celsat America, Inc. and Personal Communications Satellite Corporation ("PCSAT") (PCSAT is a wholly-owned subsidiary of American Mobile Satellite Corporation) (together the "Parties") submit these comments in response to the Further Notice of Proposed Rule Making ("*Further Notice*") in the above-captioned proceeding. Hughes and COMSAT are both investors in an international MSS system (ICO Global Communications), and, along with PCSAT, are potential wholesalers and/or retailers of MSS services in the U.S. Accordingly, the Parties have an interest in any potential changes to the Commission's microwave relocation rules and their possible impact on the expeditious deployment of MSS in the U.S.

I. Introduction

The Parties, under the name of the "MSS Coalition", recently submitted Joint Comments on COMSAT's Supplemental Comments in the Commission's 2 GHz MSS

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proceeding.^{1/} Specifically, the MSS Coalition urged the Commission to reject its earlier proposal to apply to MSS the emerging technology microwave relocation rules, which would require MSS providers to bear the expense to relocate Fixed Service ("FS") providers from spectrum bands proposed for MSS operations.

Applying those rules to MSS is unnecessary where sharing between FS and MSS can be practicably achieved. As the MSS Coalition demonstrated, sharing between MSS and FS can occur over a sufficient period of time that allows equipment that is used for FS microwave links today to be fully amortized. Coupled with the fact that other engineering solutions are available to accommodate terrestrial needs, the MSS Coalition urged the Commission not to apply the microwave relocation rules to MSS.^{2/} Moreover, the Parties note that L/Q Licensee, Inc. (a wholly-owned subsidiary of Loral/Qualcomm Partnership, L.P. and licensee of the Globalstar MSS system) also opposed application of the microwave relocation rules to MSS.^{3/}

II. The Commission's Microwave Relocation Cost Sharing Rules are Inappropriate for the Proposed MSS Bands.

The Commission has proposed in the *Further Notice* that microwave incumbents occupying emerging technology spectrum, which includes MSS-identified spectrum, be permitted to relocate some of their own links and collect reimbursement under the Commission's cost sharing plan from later-entrant PCS licensees that would have

1. See Joint Comments of the MSS Coalition, ET Docket No. 95-18 (filed May 17, 1996).

2. Joint Comments at 4.

3. Supplemental Comments of L/Q Licensee, Inc., ET Docket No. 95-18 at 11-13 (May 17, 1996).

interfered with the relocated link.^{4/} Although the proposal in the *Further Notice*, on its face, applies only to PCS entrants, the Parties are writing to express their concern that this proposal not be applied to MSS.

The Commission has recognized in its First Report and Order in this proceeding that, as new services develop, the Commission may review its relocation and cost sharing rules and make modifications where appropriate.^{5/} Indeed, the Commission's relocation and cost sharing rules were designed specifically with PCS in mind. For example, the cost sharing rules anticipate that later entrants (D, E and F block PCS licensees) be responsible for sharing certain relocation costs. This cannot apply to MSS by definition because the Commission has yet to establish a licensing scheme for MSS. In addition, the geographic service areas for MSS, in contrast to those for PCS, may be international in scope, thereby necessitating domestic MSS rules and policies that are consistent with those being adopted throughout the world.

In addition, there is no reason to apply this specific rule to MSS because it presupposes that sharing is not possible between affected services. As the Joint MSS Commenters have demonstrated, this is not the case in the MSS downlink band (2165-2200 MHz) and there are other engineering solutions available to avoid displacing FS in the MSS uplink band. If this rule were to be applied to MSS bands, the Parties are concerned that FS providers no longer would have an incentive to agree to means for sharing with MSS

4. *Further Notice* at ¶ 99.

5. *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, First Report and Order, FCC 95-157 at ¶ 92 (released April 30, 1996).

providers. Indeed, FS providers would be encouraged to relocate themselves, obtain all new equipment and obtain full reimbursement from MSS providers, rather than seek an equitable sharing solution. This windfall is contrary to the public interest and should not be allowed if the Commission's desire to implement MSS at 2 GHz is ever to become a reality.

III. Conclusion

The FCC has appropriately recognized in this proceeding that its microwave relocation and cost sharing rules will be reevaluated in the MSS context. As part of this review, the Parties urge the Commission to disallow microwave incumbents in the proposed MSS bands to relocate themselves with the expectation that their relocation expenses will be reimbursed by later-entrant MSS service providers.

Respectfully submitted,

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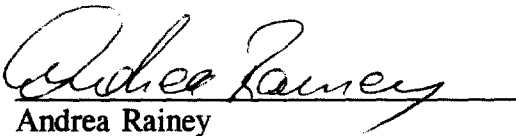
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